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COSTELLO'S TAVERN

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS - EASTERN SECTION

CHAPPELL & CO., INC., ET AL.

Plaintiff,

v.

COSTELLO'S TAVERN, INC.

Defendant.

C.A. No. 1:05-CV-10143-NG

**DEFENDANT'S SUPPLEMENTAL
BRIEF IN OPPOSITION TO
PLAINTIFF'S MOTION FOR
PARTIAL SUMMARY JUDGMENT**

I.

**PLAINTIFF'S INVESTIGATION SHOULD BE EXCLUDED
IN ITS ENTIRETY**

Not only is ASCAP's investigator incompetent and the investigation corrupt, it is a criminal act as well.

ASCAP needs to be a licensed private detective corporation in Massachusetts to legally conduct investigations of this nature within the Commonwealth unless they hire licensed investigators as contractors. ASCAP's "investigator" was purportedly an "independent contractor". This would mean that Steven Furtado must be personally licensed as a private detective in Massachusetts (which he is not) or be a full time payrolled employee

1 of a licensed private detective corporation (which he is not).

2 Massachusetts' General Laws, Chapter 147, Section 22 governs the Private Detective
3 Business and those subject to its licensing requirements:

4 "Private Detective" or "Private Investigator", a person
5 engaged in business as a private detective or private
6 investigator, including any person who, for hire, fee, reward
7 or other consideration, (1) uses a lie detector for the purpose
8 of a obtaining information with reference to the conduct,
9 integrity, efficiency, loyalty or activities of any person or
10 (2) engages in the business of making investigations for the
11 purpose of obtaining information with reference to any of the
12 following matters, whether or not other functions or services are
13 also performed for hire, fee, reward or other consideration, or other
14 persons are employed to assist in making such investigations:-- . . .

15 (d) evidence to be used before any investigative committee, board
16 of award, or board of arbitration, or in the trial of civil or
17 criminal cases. M.G.L., Chapter 147, Section 22 (Emphasis
18 added)

19 The penalties for violation of any provision of this section is a fine of not less than
20 two hundred nor more than one thousand dollars, or by imprisonment for not more than one
21 year, or by both such fine and imprisonment.

22 Even if ASCAP claims that the investigator is covered under one of the exclusions
23 listed under M.G.L. Chapter 147 Section 22, he would still need to be an employee of
24 ASCAP (which he is not). He is an illegal freelance investigator.

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CERTIFICATE OF SERVICE

I, Ethel Brown, hereby certify that on this 7th day of December, 2005, I served the following document: **DEFENDANT'S SUPPLEMENTAL BRIEF AND OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT** pursuant to Fed.R.Civ.P. 26(a)(1) and Local Rule 26.2(A) on the plaintiffs' counsel by mailing a copy thereof addressed to: Stephen S. Young, Esq., Holland & Knight, LLP, 10 St. James Avenue, Boston, MA 02116.

/s/ ETHEL BROWN
ETHEL BROWN

Nelson ♦ Griffin
TRIAL ATTORNEYS